

UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK

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JORGE LINARES,

Petitioner,

vs

9:09-CV-1191

WARREN D. BARKLEY,

Respondent.

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APPEARANCES:

OF COUNSEL:

JORGE LINARES

Petitioner, Pro Se

96-A-3483

Cape Vincent Correctional Facility

Rte. 12E

Box 599

Cape Vincent, NY 13618

HON. ANDREW M. CUOMO

Attorney General of the

State of New York

Attorney for Respondent

Department of Law

120 Broadway

New York, NY 10271

PAUL B. LYONS, ESQ.

Asst. Attorney General

HON. DAVID N. HURD

United States District Judge

**DECISION and ORDER**

Petitioner, Jorge Linares, brought a petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254 on October 23, 2009. By Report-Recommendation dated October 8, 2010, the Honorable Randolph F. Treece, United States Magistrate Judge, recommended that the respondent's motion to dismiss (Docket No. 13) be granted and the petition for a writ of Habeas Corpus (Docket No. 1) be denied; and further recommended that no certificate of

appealability should be issued with respect to any of petitioners claims. Petitioner requested, and was granted, additional time to submit objections to the Report-Recommendation. No objections were ever filed.

Based upon a careful review of the entire file and the recommendations of Magistrate Judge Treece, the Report-Recommendation is accepted and adopted in whole. See 28 U.S.C. 636(b)(1).

Accordingly, it is

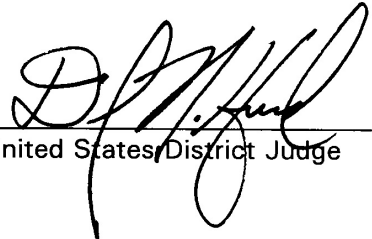
ORDERED that

1. The respondent's motion to dismiss (Docket No. 13) is GRANTED;
2. The petition for a writ of habeas corpus is DENIED; and
3. No certificate of appealability will be issued.

The Clerk is directed to enter judgment accordingly and close the file.

IT IS SO ORDERED.

Dated: December 1, 2010  
Utica, New York.

  
United States District Judge